

The Magistrate Judge recommends that the final decision of the Commissioner be affirmed because the Commissioner applied the correct legal standard and the Commissioner's decision to deny POD, DIB, and SSI is supported by substantial evidence. Plaintiff has filed no objection to the Magistrate Judge's Report and Recommendation.

## II. STANDARD OF REVIEW

The applicable standard of review of a magistrate judge's report and recommendation depends upon whether objections were made to the report. Whereas here, no timely objection was filed, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. FED. R. CIV. P. 72 advisory committee's notes (citation omitted). In fact, the U.S. Supreme Court has held that, "it does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings." *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

## III. OVERVIEW OF MAGISTRATE JUDGE'S ANALYSIS

A review of the Commissioner's decision by a magistrate judge is limited to determining whether it is supported by substantial evidence and was made pursuant to proper legal standards. *Ealy v. Comm'r of Soc. Sec.*, 594 F.3d 504, 512 (6th Cir. 2010). The court does not review the evidence *de novo*, make credibility determinations, or weigh the evidence.

Plaintiff contends there are two points of error. First, that the ALJ failed to account for all the limitations the State Agency Psychologist raised. However, "there is no legal requirement for an ALJ to explain each limitation or restriction he adopts, or conversely, does not adopt from a non-examining physician's opinion, even when it is given significant weight." *Smith v. Comm'r Soc. Sec.*, No. 5:11 CV 2104, 2013 WL 1150133, at \*11 (N.D. Ohio Mar. 19, 2013). Second, Plaintiff contends that the ALJ did not credit Plaintiff's vertigo as being "severe". It is the obligation of the ALJ to assess credibility and determine facts. *Griffeth v. Comm'r of Soc.*

*Sec.*, 217 Fed. App'x 425, 429 (6th Cir. 2007). The ALJ did not err in finding the Plaintiff's statements regarding her vertigo symptoms as not entirely credible, especially in light of the objective diagnostic tests for vertigo returning "normal" results and the Plaintiff's own decision to stop taking vertigo medication.

#### IV. CONCLUSION

The Court has carefully reviewed the Report and Recommendation and agrees with the findings set forth therein. The Report and Recommendation of Magistrate Judge Ruiz (ECF #13) is ADOPTED and the final decision of the Commissioner is affirmed.

IT IS SO ORDERED.

  
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DONALD C. NUGENT  
United States District Judge

DATED: July 5, 2018